

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MALIBU MEDIA, LLC

Plaintiff,

-against-

Case No. 1:18-CV-00230-LAP

JOHN DOE subscriber assigned IP address,
50.74.35.59

Judge Preska

Defendant
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**DEFENDANT JOHN DOE'S (IP Address 50.74.35.59) OBJECTIONS
TO PLAINTIFF'S SUBPOENA TO CHARTER COMMUNICATIONS, INC
PURSUANT TO RULE 45 FOR NAME AND ADDRESS OF DEFENDANT**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, defendant John Doe, by its attorney, Paul P. DeFiore, Esq. hereby states objections to Plaintiff's subpoena to Charter Communications f/k/a Time Warner Cable ("Charter"), 12405 Powerscourt Drive, St. Louis, MO 63131 for the name and address of defendant Doe, as follows:

OBJECTIONS

1. Upon information and belief, Charter is prepared to provide a name and address for defendant Doe in response to the subpoena, based on "account holder" status, when the account in question contains multiple "floating" IP addresses and, upon information and belief, cannot reasonably be traced to a single user or "copyright infringer".
2. Despite its claims to the contrary, Plaintiff's instant action for damages for copyright infringement and the facts and law it has presented in support of its application to serve the referenced subpoena, fail to plead allegations which establish that the putative defendant, which maintains a commercial account for the use of its customers and visitors, was involved in an directed copyright piracy scheme. Upon information and belief, Charter is able to provide sufficient detail regarding its account

holder to satisfy plaintiff's requirements for this litigation without providing the account holder's name and address.

3. Upon information and belief, the twelve(12) instances of copyright infringement alleged by plaintiff in its complaint, in the period of 2014 through 2018 cannot reasonably be traced to Charter's account holder based on the investigations relied upon by plaintiff in filing suit against this John Doe. Revealing the account holder's identity will cause the account holder harm and expense by forcing it to defend itself in a plenary action which appears to have little chance of success.

Dated: Long Island City, New York
May 17, 2018

Respectfully submitted,



PAUL P. DE FIORE, ESQ. (PD-3647)

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Long Island City, New York 11101

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Attorney for Defendant JOHN DOE

(IP ADDRESS 50.74.35.50)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALIBU MEDIA, LLC

Plaintiff

Case No: 1:18-CV-00230-LAP

-against-

AFFIRMATION OF SERVICE

JOHN DOE subscriber assigned IP address,
50.74.35.59

Defendant
-----X

I, PAUL P. DE FIORE, declare under penalty of perjury that I served a copy of the attached OBJECTIONS TO RULE 45 SUBPOENA upon CHARTER COMMUNICATIONS, INC. f/k/a TIME WARNER CABLE in the manner directed by their "Legal-File-Sharing Team via facsimile at (314) 909-0609. : .

Dated: Long Island City, New York
May 17, 2018



PAUL P. DE FIORE (PD 3647)

Attorney for John Doe Defendant.

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